Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re

Amendment of Section 73.202(b)	)	
Table of Allotments	)	RM - 11421
FM Broadcast Stations	)	
Beatty and Goldfield, Nevada	)	

To: Office of the Secretary
Chief, Audio Division
Media Bureau

PETITION FOR RULE MAKING (Hybrid Filing)

Keilly Miller ("Miller"), permittee of an unbuilt NEW(FM) BNPH-20060310ACV Channel 261C Beatty, Nevada, by her attorneys, hereby petitions for rule making to amend Section 73.202(b) of the Commission's rules as part of a contingent hybrid application and rule making proceeding as follows:

Community	**Present**	**Proposed**
Beatty, NV	261C[1]	259A
Goldfield, NV	----	262C1

In her contingently filed "hybrid" Form 301 application, (File No. BMPH-20070727) Miller proposes to modify her allotment reference site, and change the station community of license from Beatty to Crystal, Nevada, as that community's first local transmission service. Reallotting Channel 261 to Crystal

[1] As noted herein, Miller has filed a hybrid minor change application (File No. BMPH-20070727)to reallot channel 261 to Crystal, Nevada.

MB 07-41

will permit a new FM allotment at Beatty, Nevada, and the allotment of a first local aural service at Goldfield, Nevada, as requested herein.

New Allotment at Beatty, Nevada

Beatty has already been deemed to be a community for allotment purposes for Miller's current assignment (BNPH-20060310ACV) and for station KDAN(AM). As shown by the attached engineering, Channel 259A may be allotted to Beatty consistent with all of the Commission's engineering and spacing criteria.[2]

If the new channel is allotted at Beatty and her concurrent application is granted, Miller will participate in the auction for the new channel. If she is successful in the auction Miller will construct the facilities if the application is granted.

New Allotment at Goldfield, Nevada

Facility ID 86201 channel 7 Nevada Channel 3, Inc BLCT-200204 11AAM

Goldfield is the community of license for primary TV station KEGS and has, therefore, already deemed to be a community for allotment purposes. The instant petition proposes the first

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[2]Due to the presence of KDAN and the fact that Miller's station is unbuilt, the proposed new allotment for Beatty is not a replacement channel for a sole aural service at Beatty. However, even if it were, a replacement channel is permissible in the case of moving unbuilt service because there is no potential danger of interrupting established service. See, e.g., Pacific Broadcasting of Missouri, LLC 19 FCC Rcd 10950, 2004 ¶¶1, 3, 14 (2004)(vacant replacement channels do not cure the disruption to existing service occasioned by removal of an operating station, *emphasis added*).

local aural service at Goldfield. As shown by the attached engineering, Channel 262C1 may be allotted to Goldfield consistent with all of the Commission's engineering and spacing criteria. If the new channel is allotted at Goldfield and Miller's concurrent application is granted, she will participate in the auction for the new channel. If she is successful in the auction Miller will construct the facilities if the construction permit application is granted.

In view of the foregoing, the Commission should amend Section 73.202(b) as follows:

Community	Present	Proposed
Beatty, NV	----	259A
Goldfield, NV	----	262C1

Respectfully Submitted,

KEILY MILLER

By _____
John S. Neely
Its Attorney

July 27, 2007

Miller and Neely, PC
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Bethesda, MD 20815

TECHNICAL EXHIBIT
APPLICATION FOR MODIFICATION OF
FM CONSTRUCTION PERMIT AND
PETITION FOR RULE MAKING
NEW FM RADIO STATION
CRYSTAL, NEVADA

JUNE 4, 2007

CH 261C3 4 KW 252 M

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Technical Narrative

The technical exhibit of which this narrative is part was prepared in support of an application for a new FM radio station to be reassigned to Crystal, Nevada. This application seeks modification of an unbuilt construction permit authorization for Channel 261C at Beatty, Nevada that was obtained by the applicant in Auction #62.

Summary of Proposal

- Reallocate Channel 261C at Beatty, Nevada to Channel 261C3 at Crystal, Nevada.
- Propose vacant allotment of Channel 259A at Beatty, Nevada.
- Propose vacant allotment of Channel 262C1 at Goldfield, Nevada.

This is a hybrid type of filing, with the first component being proposed in this herein Form 301 application and the last component being proposed in a contingently filed herein Rule Making proposal.

Crystal, Nevada Component

Proposed Transmitter Location

A map showing the transmitter site location is provided in Figure 1. A sketch showing the proposed antenna and supporting structure is shown on Figure 2. As the overall tower height is less than 200 feet and not located near any public airports, an FAA *Determination of No Aeronautical Hazard* is not required.

Interference Concerns

The 115 dBu predicted "blanketing" contour of the proposed station would extend radially less than 1 kilometer from the transmitting site. No interference is expected. However, the applicant recognizes its responsibility to resolve complaints of interference, including blanketing and receiver-induced interference as required by Sections 73.315(b), 73.316(e) and 73.318.

Coverage Contours

The predicted coverage contours for the proposed operation were calculated in accordance with the provisions of Section 73.313. In accordance with current FCC practice, the distances to the contours were calculated without consideration given to terrain roughness correction factors.

The average terrain elevations from 3 to 16 kilometers along eight radials evenly spaced at 45-degree intervals were obtained from a N.G.D.C. 30-second terrain database. The terrain elevations were then used in combination with the effective radiated power for determining the distances to coverage contours.

The U.S. Census has not defined a boundary for the community of Crystal, Nevada. Therefore, the undersigned defined an approximate community boundary based upon the encompassment of the population centroids located nearby the community of Crystal. Therefore, based upon this defined community boundary, the FCC predicted 70 dBu coverage contour encompasses all of Crystal, Nevada.

Allocation Study

Figure 4 is an allocation study for channel 264C3 at the proposed site. The figure contains a tabulation of actual and required separation distances from other pertinent stations and allotments. The proposed site meets the FCC's minimum separation requirements, specified in Section 73.207(b) of the Commission's Rules, to all assignments and stations.

Community of License Change - Section 307(b)

1. Proposal

It is proposed to reallot the unbuilt Channel 261C facility from Beatty, Nevada to Channel 261C3 at Crystal, Nevada.

2. City Populations and Local Service

Crystal community has an approximate 2000 U.S. Census population of 110 persons. Beatty has one other authorized aural service, AM station KDAN(AM) on 1240 kilohertz. Beatty community has an approximate U.S. Census population of 893 persons. It is herein proposed that the community of Beatty would maintain one FM allotment and an authorized new AM radio station.

3. Urbanized Area Considerations

Neither Crystal nor Beatty is part of any Urbanized area.

4. 60 dBu Gain and Loss Areas and Available Aural Services

The authorized Channel 261C Beatty service area contains 2,810 persons over 24,090 square kilometers. The proposed Channel 259A Beatty service area contains 1,157 persons over 2,460 square kilometers. The proposed Channel 261C3 Crystal service area contains 24,230 persons over 4,780 square kilometers. The proposed Channel 262C1 Goldfield service area contains 3,610 persons over 16,100 square kilometers.

Considering all of the herein proposals, the loss area contains 993 persons over 13,630 square kilometers. The gain area contains 27,180 persons over 12,880 square kilometers. Therefore, there will be "net" gain in population served by 11,887 persons and a "net" loss in area of 750 square kilometers.

5. 70 dBu and 60 dBu Coverage

The following tabulates the area and population within the 70 dBu and 60 dBu contours depicted in Figure 3.

Contour	Population (2000 Census)	Area (sq. km)
70 dBu	11,790	2,160
60 dBu	24,700	5,720

Contour locations calculated in accordance with the provisions of Section 73.313. Population calculated using a computer program that utilizes the 2000 U.S. Census database of "population centroids".

6. Protected FM and AM Services Available

It has been determined that there are 2 aural services available to Beatty, including the herein proposed Beatty allotment[1] and at least 7 to Crystal, including the herein proposed Crystal allotment.[2]

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[1] The services that would be provide to the community of Beatty are KDAN(AM) and the herein proposed Channel 259A allotment.
[2] The services that would be provide to the community of Crystal are KOMP(FM), KCYE(FM), KXTE(FM), KNPR(FM), KPLV(FM), KKPT(FM) and the herein proposed Channel 261C3 allotment.

Radiofrequency Electromagnetic Field Exposure Analysis

The proposed facility has been evaluated in terms of potential radiofrequency electromagnetic field exposure at ground level in accordance with OET Bulletin No. 65, *Evaluating Compliance with FCC Specified Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*.[3] The power density at the base of the tower was calculated using the appropriate procedure contained in Section 2, Supplement A, *Additional Information for Radio and Television Broadcast Stations*, of the Bulletin.

For the calculation, a combined horizontal and vertical polarized ERP of 8 kilowatts is employed with a radiation center of 30 meters above ground level. A downward relative field value of 0.5 was assumed. It is calculated that the power density will not exceed 0.07 mW/cm^2 at ground level. This is less than forty percent of the Commission's guideline value for an uncontrolled environment for a FM radio station.[4] There are no other known high-powered emitters in the nearby vicinity.

Access to the transmitting site will be restricted and appropriately marked with warning signs. When it becomes necessary for workers to ascend the tower, appropriate measures, such as reduction or shut down of power if necessary, shall be taken to ensure that the human exposure to radiofrequency radiation will not exceed the FCC guidelines.

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[3] OET Bulletin 65, Second Edition 97-01, August, 1997.
[4] The FCC maximum guideline for a FM broadcast station in an uncontrolled environment is 0.2 mW/cm^2.

It is noted that this statement only addresses the potential for radiofrequency electromagnetic field exposure. All other aspects of the environmental processing analysis will be or already have been provided to the FCC by the tower owner as part of the tower registration process.

Proposed Beatty, Nevada Allotment Component

By Beatty migrating to Channel 261C3 at Crystal, a new "drop-in" allotment on Channel 259A is possible at the community of Beatty, therefore maintaining an allotment at Beatty, Nevada. The proposed allotment reference coordinates point for Beatty are:

36° 56′ 05″ North Latitude
116° 51′ 00″ West Longitude

It is noted that the required 70 dBu coverage contour encompassment is based not upon the Beatty 2000 Census designed place (CDP) boundary, but upon the plat of the townsite of Beatty, which is significantly smaller than the Census CDP. A copy of this survey is included herein as an Appendix. The survey was included in the application for construction permit application for KDAN(AM) at Beatty (See FCC File Number: BNP-20041029AGC, as amended). It appears that the Commission accepted this plat boundary for the community of Beatty and granted the KDAN(AM) construction permit.

Proposed Goldfield, Nevada Allotment Component

By Beatty migrating to Channel 261C3 at Crystal, a new "drop-in" allotment on Channel 262C1 is possible at the community of Goldfield, Nevada. The proposed allotment reference coordinates point for Goldfield are:

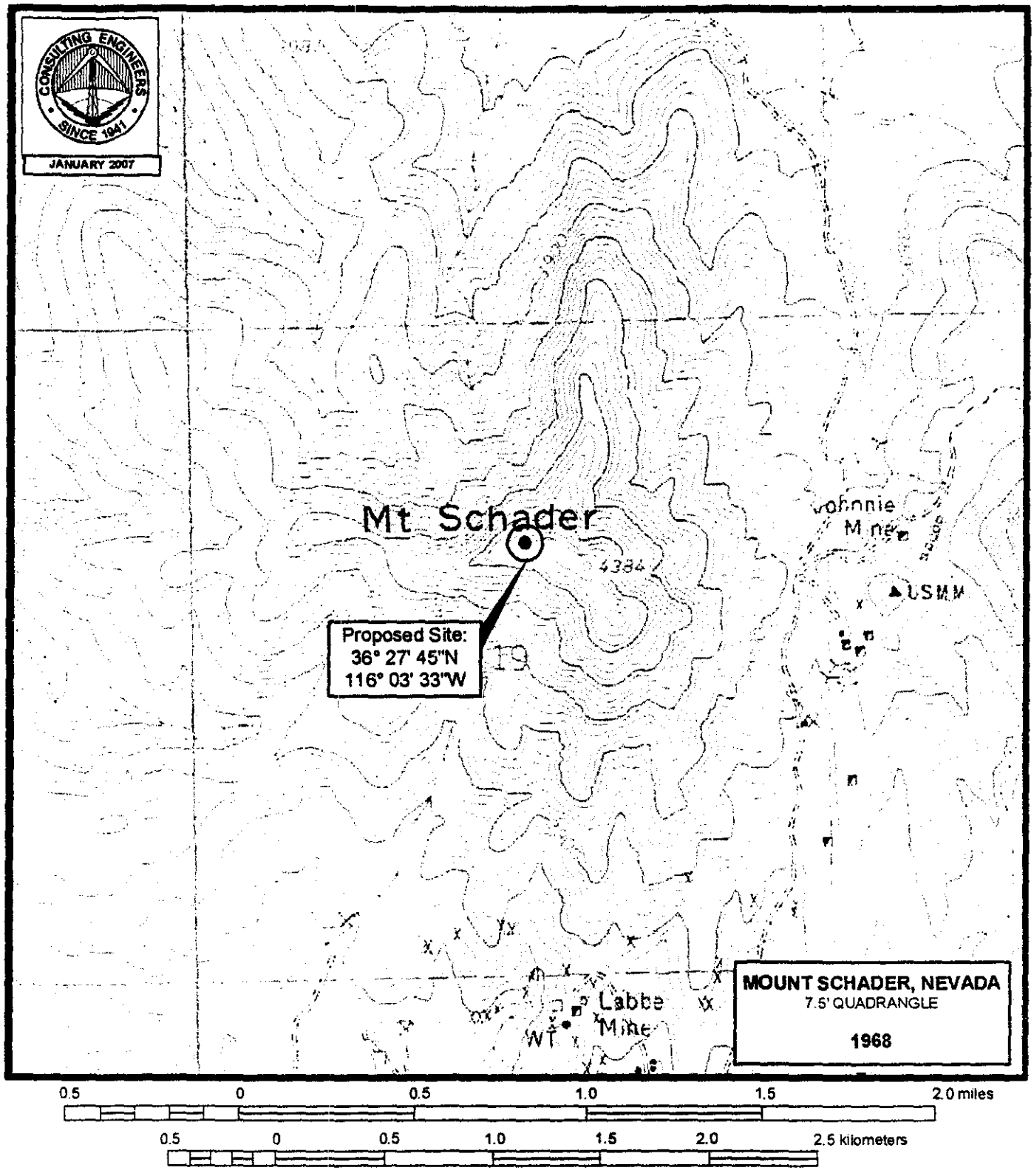
37° 42′ 41″ North Latitude
117° 13′ 56″ West Longitude

Charles A. Cooper

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
941.329.6000

June 4, 2007

Figure 1

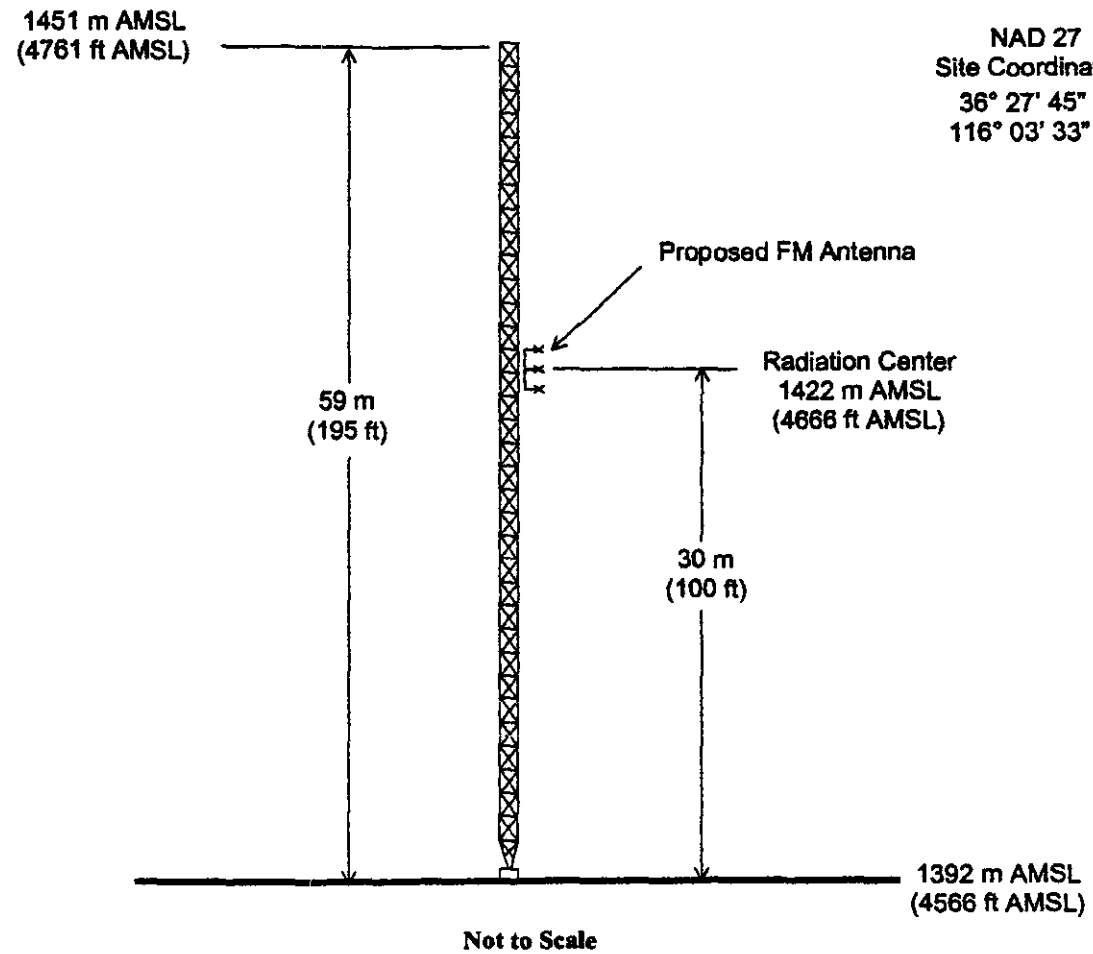


PROPOSED TRANSMITTER SITE

NEW FM RADIO STATION
CRYSTAL, NEVADA
CH 261C3 4 KW 252 M

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

ASRN: N/A



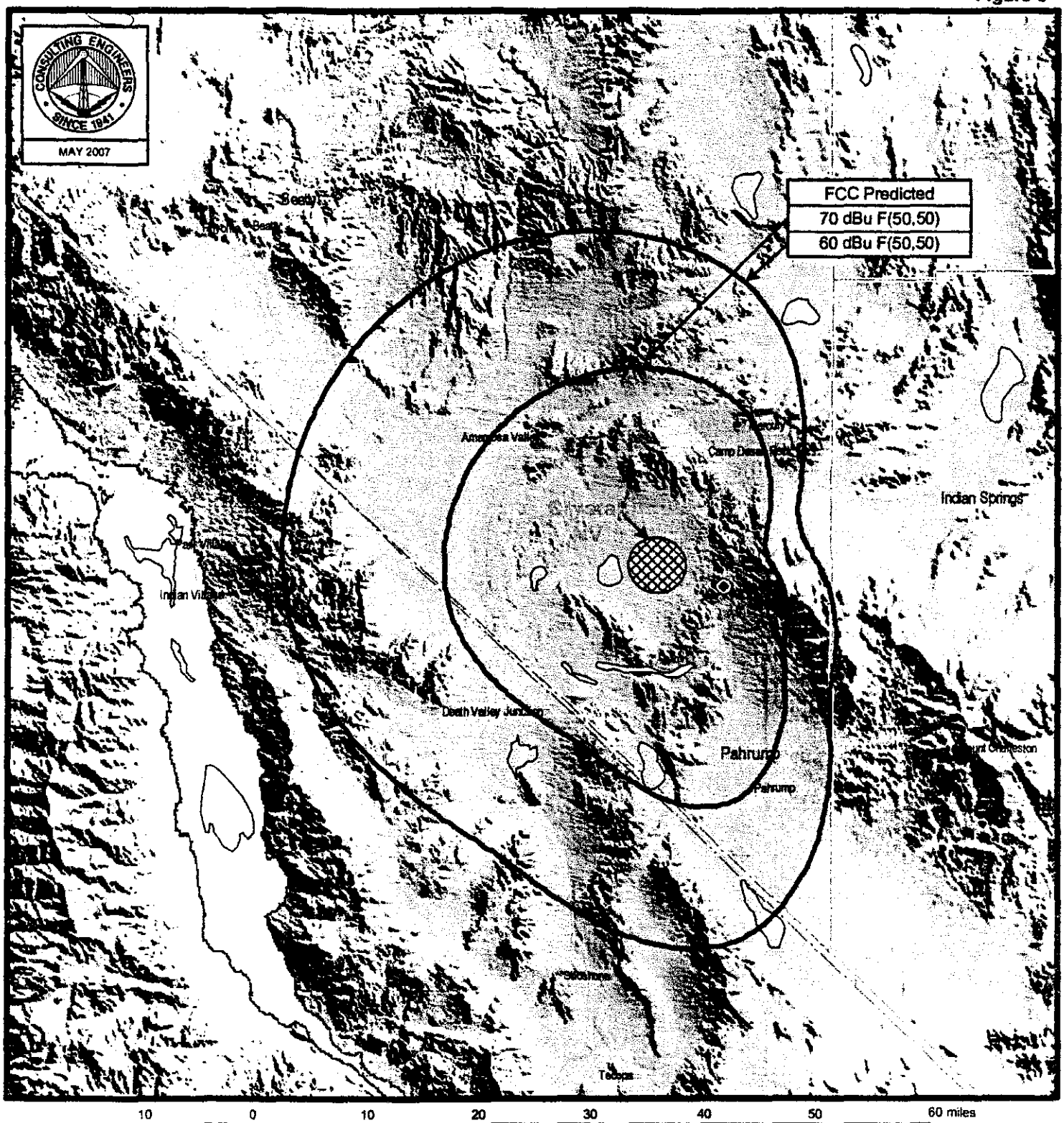
ANTENNA AND SUPPORTING STRUCTURE

NEW FM RADIO STATION

CRYSTAL, NEVADA

CH 261C3 4 KW 252 M

du Treil, Lundin & Rackley, Inc. Sarasota, Florida



PREDICTED COVERAGE CONTOURS

NEW FM RADIO STATION

CRYSTAL, NEVADA

CH 261C3 4 KW 252 M

du Treil, Lundin & Rackley, Inc Sarasota, Florida

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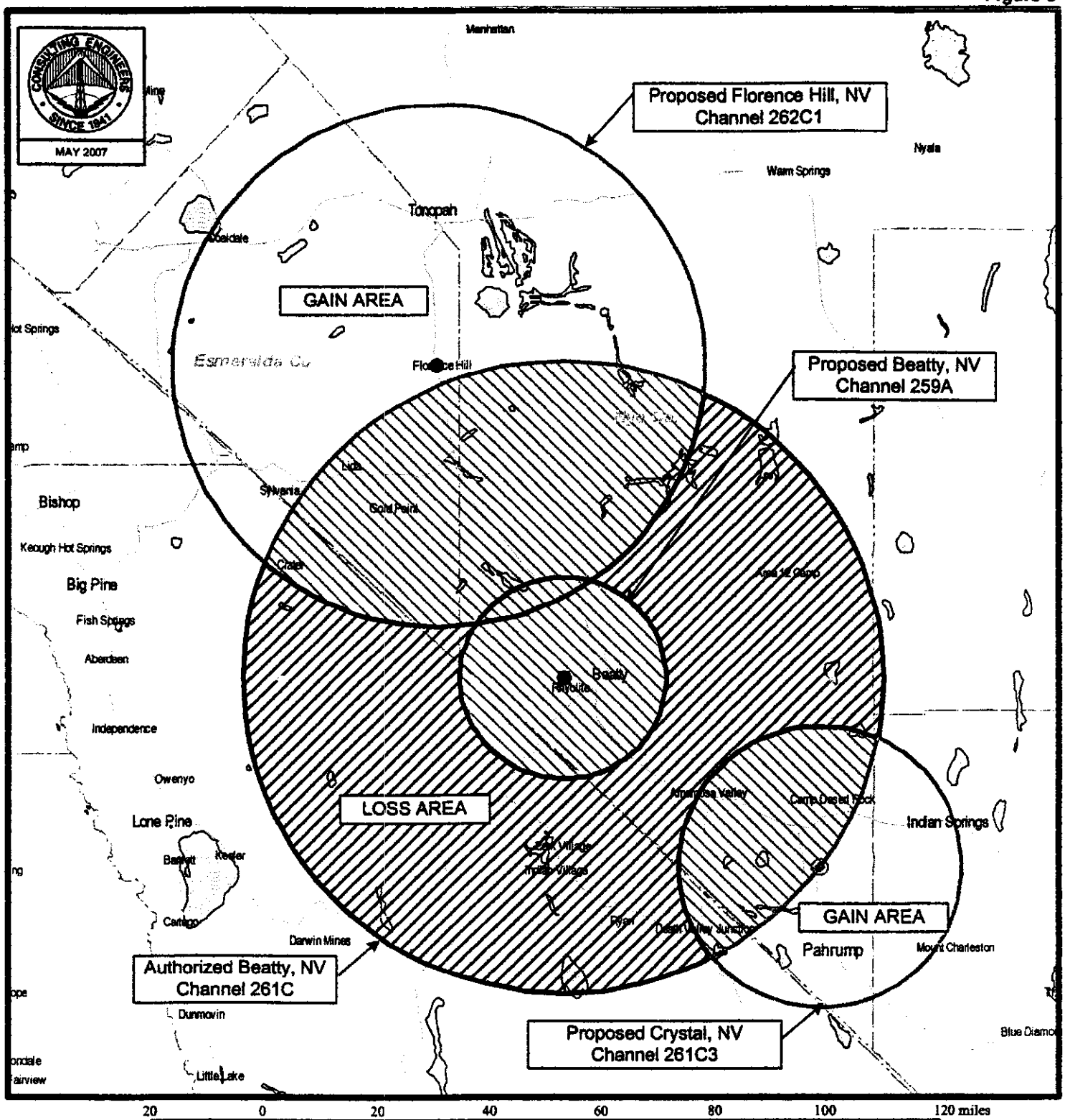
Channel 261C3 Crystal, Nevada Allocation Study

36° 27′ 45″ North Latitude
116° 03′ 33″ West Longitude

Call Id	City St	Status	File Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. (km)
NEW	BEATTY		BNPH	261C	100	Y	36-56-05	Y	306.9	87.98	237.0
165946	NV	CP C	20060310ACV	100.1	514	72695	116-51-00				
(Applicant's Authorized Facility.)											
KHWZ	LUDLOW		BLH	261B1	25	N	34-42-34	Y	182.5	194.68	175.0
34557	CA	LIC C	20041221AAP	100.1	76		116-09-02				
KKJJ	HENDERSON		BMLH	263C	100	N	36-00-30	N	117.8	107.29	96.0
12560	NV	LIC C	20070406ABM	100.5	357		115-00-20				



GAIN/LOSS 60 DBU SERVICE MAP

NEW FM RADIO STATION

CRYSTAL, NEVADA

CH 261C3 4 KW 252 M

du Treil, Lundin & Rackley, Inc Sarasota, Florida

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Channel 259A Beatty, NV Allocation Study

36° 56' 05" North Latitude
116° 51' 00" West Longitude

Call Id	City St Status	File Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. (km)
KHYZ	MOUNTAIN PA	BMLH	259B	8.4	N	35-29-27	N	143.8	197.93	178.0
34555	CA LIC C	20020228ADC	99.7	551		115-33-27				
KHYZ	MOUNTAIN PA	BMPH	259B	50	N	35-28-05	N	142.5	204.36	178.0
34555	CA CP C	20070118ADV	99.7	150		115-28-32				
NEW	BEATTY	BNPH	261C	100	Y	36-56-05	Y	101.3	0.00	95.0
165946	NV CP C	20060310ACV	100.1	514	72695	116-51-00				

(Applicant's authorized facility.)

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Channel 262C1 Goldfield, NV Allocation Study

37° 42′ 41″ North Latitude
117° 13′ 56″ West Longitude

Call Id	City St Status	File Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. (km)
NEW	BEATTY	BNPH	261C	100	Y	36-56-05	Y	158.5	92.61	209.0
165946	NV CP C 20060310ACV		100.1	514	72695	116-51-00				
(Applicant's authorized facility.)										
KMAK	ORANGE COVE BLH		262A	0.072	N	36-44-45	N	240.0	211.19	200.0
56145	CA LIC C 19900911KB		100.3	632		119-16-58				
KIBS	BISHOP BLH		264B	1	N	37-25-00	N	248.9	90.17	79.0
24945	CA LIC C 7571		100.7	902		118-11-00				

APPENDIX

COMMUNITY BOUNDARY FOR BEATTY, NEVADA AS CONTAINED WITHIN KDAN(AM) APPLICATION FOR CONSTRUCTION PERMIT

Figure 7

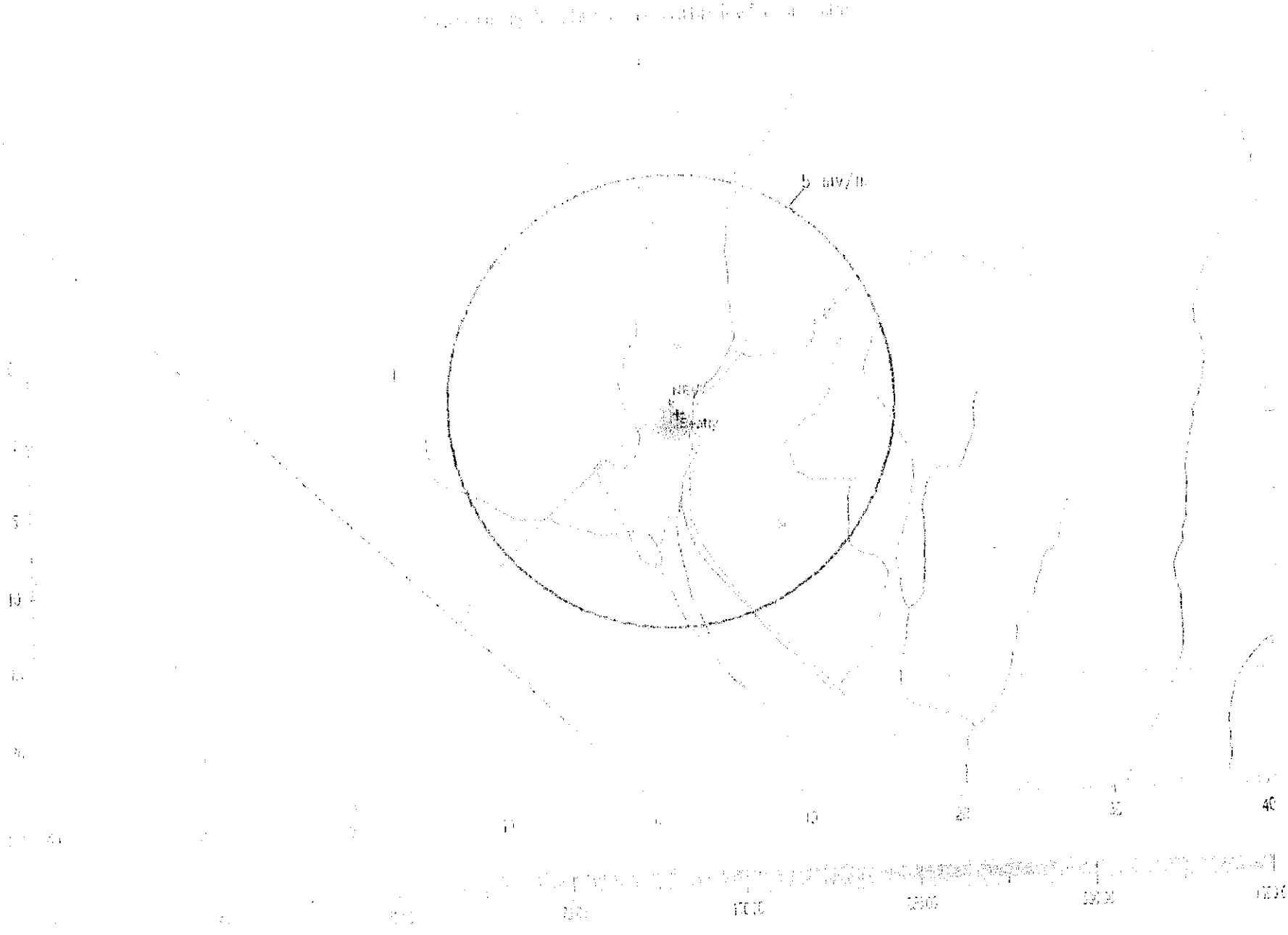
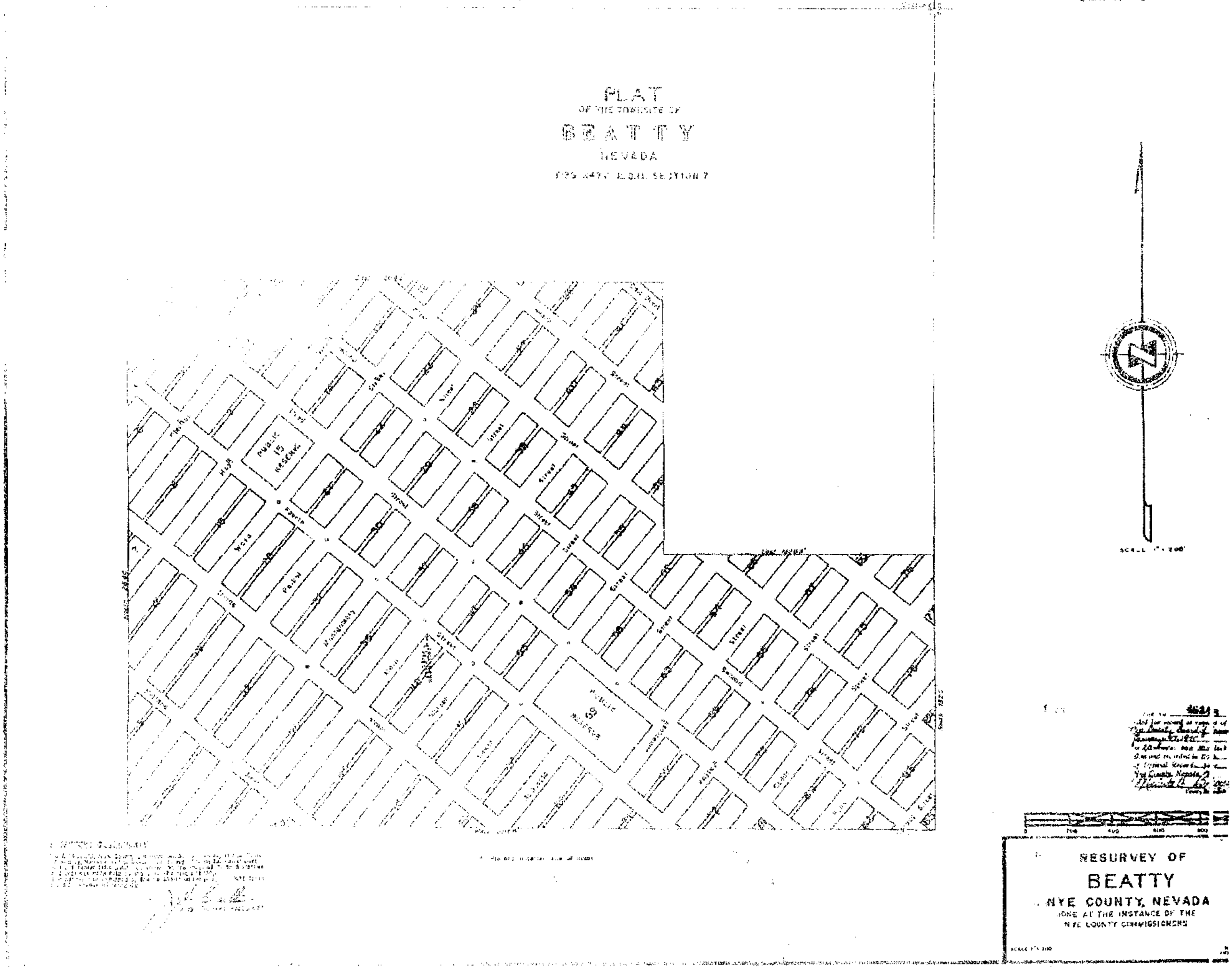


FIGURE 1


PLAT
OF THE TOWNSITE OF
BEATTY
NEVADA
PUBLIC 15 RESERVE
PUBLIC 69 RESERVE
RESURVEY OF
BEATTY
NYE COUNTY, NEVADA
DONE AT THE INSTANCE OF THE
NYE COUNTY COMMISSIONERS

EASTERN SIERRA BROADCASTING

New AM Radio Station

Beatty, NV

1240 kHz, 1 kW, ND-U

ENGINEERING STATEMENT

This engineering statement, together with the attached figures, has been prepared on behalf of Eastern Sierra Broadcasting, applicant for a new AM radio station (File # BNP-20041020AGC, facility ID # 161165), for Beatty, NV, in response to an FCC letter dated September 6, 2005. The letter raised questions of both daytime and nighttime coverage to the community of Beatty, NV, as well as tower registration.

The US Census for year 2000 indicates that Beatty, NV has a population of 1153 persons and this is concentrated into a geographical area less than 1 square kilometer.

Figure 1 is a plat of the townsite of Beatty done by a licensed land surveyor at the instance of the Nye County Commissioners, clearly shows the maximum dimensions of the community to be 3960 feet east to west and 2640 feet north to south. The actual area is 0.81 square kilometer. Nye County officially regards the townsite of Beatty as a village and the larger irregular boundary, as shown in the FCC letter, as a township in which is principally unpopulated.

Figure 2 is a population density map on which is overlayed the proposed daytime 5 mv/m contour. It is noted that the majority of population is concentrated at the townsite of Beatty and in no case is there any population beyond the 5 mv/m contour.

Figure 3 is again a population density map on which are overlayed the nighttime 21.220 -5 and 2 mv/m contours. The nighttime interference free 21.220 mv/m encloses all of the townsite of Beatty, NV and hence all of its population. There is no population between the 5 and 2 mv/m contours.

On the basis of population exposed, it appears that pending application BNP-20041020AGC of Eastern Sierra Broadcasting indeed does comply with Section 73.24(f) of the Commission's Rules.

Further, the FAA has issued a determination of no hazard to air navigation and the proposed antenna structure has been registered with ASR # 1230833.

November 16, 2005

[signature]

[illegible]

Consulting Engineer

FIGURE 3